

Case No. 4:24-cv-00053-MTS


The Court agrees that no case or controversy exists in this action. For that reason, it concludes dismissal *without* prejudice is required. *See Cnty. of Mille Lacs v. Benjamin*, 361 F.3d 460, 464 (8th Cir. 2004) (“A district court is generally barred from dismissing a case with prejudice if it concludes subject matter jurisdiction is absent.”); *List v. County*

of Carroll, 240 F. App'x 155, 156 (8th Cir. 2007) (per curiam) (noting that a dismissal for lack of subject matter jurisdiction is effectively “a dismissal without prejudice”); *see also Green v. Dep't of Educ. of City of New York*, 16 F.4th 1070, 1074 (2d Cir. 2021) (per curiam) (explaining “dismissals for lack of subject matter jurisdiction must be without prejudice, rather than with prejudice” (internal quotations omitted)); *Womack v. Owens*, 736 F. App'x 356, 357 (4th Cir. 2018) (per curiam) (“[A] dismissal for lack of subject matter jurisdiction must be one without prejudice, because a court that lacks jurisdiction has no power to adjudicate and dispose of a claim on the merits.” (internal quotations omitted)).

Accordingly,

IT IS HEREBY ORDERED that the Motion to Dismiss, Doc. [22], is **GRANTED** in part. A separate Order of Dismissal dismissing this action without prejudice will be entered herewith.

Dated this 8th day of August 2024.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE